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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/745,669	12/21/2000	Brian M. Siegel	50N3787	5754

27774 7590 11/02/2004

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EXAMINER
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RHODE JR, ROBERT E

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 11/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/745,669

Applicant(s)

SIEGEL ET AL

Examiner

Rob Rhode

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 September 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 - 6, 7, 28, 31 and 32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 - 6, 7, 28, 31 and 32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

Applicant amendment of 1-2-03 canceled claims 8 – 27, 29 – 30 and 33 - 41 as well as traversed rejections of Claims 1- 6, 7, 28, 31 and 32.

Currently, claims 1- 6, 7, 28, 31 and 32 are pending.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 28 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted step is: transferring the data from the removable memory to the web site. The claim as currently worded, there is not a positive recitation of moving/transferring/viewing the data store in the removable memory.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1, 7 and 28 are rejected under 35 U.S.C. 102(b) as being unpatentable over Veeneman (US 5,774,874).**

Regarding claim 1 and related claims 7 and 28 (Original), Veeneman teaches an apparatus for retrieving and processing information related to a consumer product using a universal product code comprising:

a) a portable consumer device, said portable consumer device including:

(i) a portable consumer good that lacks the capacity for data transmission; and (ii) a scanning and storage device in mechanical communication with said portable consumer good, said scanning and storage device comprising:

(1) a scanning element converting a printed universal product code symbol into machine readable information representative of said universal product code; and

(2) a removable memory medium to which said information is stored; and b) an internet-ready device coupable to one or more Internet-based information servers, said Internet-ready device including a removable memory medium adapted to accept said removable memory medium from said scanning and storage device (see at least Abstract, Col 5, lines 62 – 67 and Col 16, lines 1 – 2).

Regarding claim 2 (Original), Veeneman teaches an apparatus; wherein said portable consumer good comprises an electronic device (Col 2, lines 1 – 4).

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Regarding claim 4 (Original), the recitation that "wherein said electronic device comprises one of the following: a portable radio, a portable mini-disc player, a portable compact disc player, a portable cassette player, a loom box, a two-way radio, a portable telephone, a pager, a camera, a camcorder, a laptop computer, a portable television, a portable video game and a wristwatch", such recitation is given little patentable weight because it imparts no structural or functional specificity which serves to patentably distinguish the instant invention from the other "electronic device" already disclosed by Veeneman.

Regarding claim 6 (Original), Veeneman teaches an apparatus, wherein said removable memory medium comprises one of the following: a magnetic disc, flash memory, a smart card, a memory stick, a diskette, a CD-ROM, a disk drive, a random access memory chip, and an optical storage device (Col 5, lines 62 – 67).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Veeneman (US 5,774,874) in view of "Swipe your shopping"; Chris field; The Times; London (UK); Mar 11, 1998 and hereafter referred to as "Field".**

Veeneman substantially discloses and teaches the applicant's invention.

While Veeneman does disclose a portable consumer good, Veeneman does not specifically disclose and teach an apparatus, wherein said portable consumer good comprises a non-electronic device.

On the other hand and regarding claim 3 and related claim 5 (Original), Field teaches an apparatus, wherein said portable consumer good comprises a non-electronic device (Page 1). Please note that according to Webster-Merriam Dictionary that for a device to be electronic it requires "electrons". More specifically, Webster's further defines electronic as "of relating to, or utilizing devices constructed or working by the methods or principals of electronics". Thus, some form of electron flow is required. Thereby, the portable electronic device of Field meets the test as defined by Webster's of an electronic device, which can be incorporated into a non electronic device. Furthermore, the applicant in their specification stated that "'The portable scanning and storage device can also be incorporated into non-electronic, portable consumer goods such as pens, clothing (e.g., gloves), pocketbooks, and so forth" (underlining added for emphasis).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have enabled the apparatus of Veeneman with the apparatus of Field to have enabled an apparatus wherein said portable consumer good comprises a non-electronic device. Veeneman discloses apparatus an for retrieving and processing information related to a consumer product using a universal product code comprising:

a) a portable consumer device, said portable consumer device including:

- (i) a portable consumer good that lacks the capacity for data transmission; and (ii) a scanning and storage device in mechanical communication with said portable consumer good, said scanning and storage device comprising: (1) a scanning element converting a printed universal product code symbol into machine readable information representative of said universal product code; and (2) a removable memory medium to which said information is stored; and b) an internet-ready device coupable to one or more Internet-based information servers, said Internet-ready device including a removable memory medium adapted to accept said removable memory medium from said scanning and storage device (see at least Abstract, Col 5, lines 62 – 67 and Col 16, lines 1 – 2). Field discloses an apparatus wherein said portable consumer good comprises a non-electronic device (Page 1). Therefore, one of ordinary skill in the art would have been motivated to extend the apparatus of Veeneman with an apparatus wherein said portable consumer good comprises a non-electronic device.

**Claims 31 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Veeneman (US 5,774,874) in view of Takahashi (US 6,181,326 B1).**

Veeneman substantially discloses and teaches the applicant's invention.

Although it is implicit in Veeneman that the bar code is converted, the reference does not specifically disclose a method, further comprising converting a scanned bar code to a uniform resource locator (URL) of a web site. Nor does Veeneman disclose a method, further comprising converting a scanned bar code and a global position to a uniform resource locator (URL) of a web site.

On the other hand and regarding claim 31 (Original), Takahashi teaches a method, further comprising converting a scanned bar code to a uniform resource locator (URL) of a web site (see at least Col 5, lines 26 – 32).

Regarding claim 32 (Original), the recitation that "further comprising converting a scanned bar code and a global position to a uniform resource locator (URL) of a web site), such recitation is given little patentable weight because it imparts no structural or functional specificity which serves to patentably distinguish the instant invention from the other "converting" already disclosed by Takahashi.



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It would have been obvious to one of ordinary skill in the art to have at the time of the invention to have provided the method of Veeneman with the method of Takahashi to have enabled a method further comprising converting a scanned bar code to a uniform resource locator (URL) of a web site and further comprising converting a scanned bar code and a global position to a uniform resource locator (URL) of a web site. Veeneman discloses a method comprising the steps of integrating a bar code scanner and a removable memory into a consumer good, wherein said consumer good comprises a non-electronic device; scanning a bar code of a selected consumer product using the integrated scanner and storing the scanned bar code in the removable memory; and accessing a web site on a computer network based on the scanned bar code, wherein said web site includes information related to the selected consumer product (Abstract, Col 5, lines 62 – 67 and Col 16, lines 1 – 2). Takahashi discloses a method, further comprising converting a scanned bar code to a uniform resource locator (URL) of a web site and further comprising converting a scanned bar code and a global position to a uniform resource locator (URL) of a web site (Abstract and Col 5, lines 26 – 32). Therefore, one of ordinary skill in the art would have been motivated to extend the method of Veeneman with a method, further comprising converting a scanned bar code to a uniform resource locator (URL) of a web site and further comprising converting a scanned bar code and a global position to a uniform resource locator (URL) of a web site.

***Response to Arguments***

Applicant's arguments, filed 9-14-04, with respect to the rejection(s) of claim(s) 1 – 6, 7, 28, 31 and 32 under 35 USC 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Veeneman (US 5,774,874) and Takahashi (US 6,181,326 B1).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Rob Rhode** whose telephone number is **(703) 305-8230**. The examiner can normally be reached Monday thru Friday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Wynn Coggins** can be reached on **(703) 308-1344**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Receptionist** whose telephone number is **(703) 308-1113**.

Any response to this action should be mailed to:

***Commissioner for Patents***

***P.O. Box 1450***

**Alexandria, Va. 22313-1450**

or faxed to:

**(703) 872-9306**

[Official communications; including

After Final communications labeled

"Box AF"]

**(703) 746-7418** [Informal/Draft communications, labeled

"PROPOSED" or "DRAFT"]


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